



CITY COUNCIL AGENDA REPORT

MEETING DATE: MARCH 7, 2006

ITEM NUMBER:

**SUBJECT: APPEAL OF CONDITIONAL USE PERMIT PA-95-10 REVOCATION
CORNER OFFICE SPORTS BAR AND GRILL
580 ANTON BOULEVARD, #201**

DATE: FEBRUARY 22, 2006

FROM: DEVELOPMENT SERVICES DEPARTMENT/PLANNING DIVISION

PRESENTATION BY: MEL LEE, AICP, SENIOR PLANNER

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714)754-5611**

RECOMMENDATION:

Conduct a public hearing and adopt resolution either upholding, reversing, or modifying Planning Commission's decision.

BACKGROUND:

On February 13, 2006, Planning Commission conducted a 90-day review of Conditional Use Permit PA-95-10, which was first approved in 1995, to allow the establishment (then called Legends Sports Bar) to expand into an adjacent tenant space to establish a game room with a maximum of 6 billiards tables and 4 or more electronic game machines. In the intervening years, the use of the room has changed to a banquet room for private parties, and the establishment currently has 2 billiard tables and 2 electronic game machines, both of which are located in the main restaurant/bar area.

The Commission determined that the use was not being operated in compliance with the permit's conditions of approval and, on a 5-0 vote, revoked PA-95-10. Revocation of the CUP means that the establishment can no longer operate past 11:00 p.m., the two billiard tables must be removed and electronic games limited to no more than 4, and the game room/banquet room area eliminated.

On February 17, 2006, Duane Heldt, one of the business operators, appealed the CUP revocation. In this appeal, the appellant states that the incidents cited for CUP revocation have no bearing on the game room/banquet room area, and that the two billiard tables should be retained.

ANALYSIS:

A 90-day review of PA-95-10 was conducted on October 10, 2005, which also included a separate review of CUP (PA-03-39), a permit allowing live entertainment and dancing on various nights. Both CUP's were reviewed resulting from problems related to the operation and violations of conditions of approval documented by Police and Code Enforcement personnel. At that hearing, the Commission revoked PA-03-39 with the business owners consent, and modified conditions of approval for PA-95-10 to further regulate the use, with a requirement that the CUP be returned to the Commission within 90 days for another review.

Despite efforts of the Police Department to work with the restaurant operators to prevent further problems, three major incidents involving Police activity have occurred during the latest 90 day review period; the first involving an assault with a deadly weapon; the second involving a Police helicopter that nearly collided with a large inflatable object 800 feet in the air over the establishment; and the third involving a situation of overcrowding which resulted in deployment of nearly all available on-duty patrol officers. Additional details regarding these incidents are provided in the Police Department report attached to the Planning Commission staff report. All of these incidents were the result of operator failure to comply with conditions of approval for the CUP.

Based upon the applicant's failure to comply, and severity of the violations, the Commission revoked the CUP rather than allowing the business to continue operating in its present form, which the Commission determined poses a threat to the health, safety and general welfare of the public. As noted in the Planning Commission staff report, revocation of the CUP will still allow the business to operate, but within its originally approved floor area (without the banquet room) and subject to Zoning Code title 13 regulations for restaurants and bars (no billiards tables), a maximum of 4 electronic game machines, and no sale of alcoholic beverages past 11:00 p.m.

ALTERNATIVES CONSIDERED:

City Council may consider the following alternatives:

- (1) Uphold Planning Commission's decision to revoke the CUP; or,
- (2) Reverse Planning Commission's decision thereby reaffirming the CUP, which would allow the business to operate with billiards tables and closing after 11:00 p.m. If City Council wishes to reverse the Commissions decision, appropriate findings will need to be made in attached "Exhibit A" to the "draft" approval Resolution.

FISCAL REVIEW:

Fiscal review is not necessary.

LEGAL REVIEW:

Legal review is not necessary.

CONCLUSION:

Based upon the inability of the operators to run the establishment in compliance with the CUP conditions of approval, and the potential threat to the public health, safety, and general welfare as documented by the Police Department, the Planning Commission revoked the CUP.



MEL LEE, AICP
Senior Planner



DONALD D. LAMM, AICP
Deputy City Mgr./Development Svs. Dir.

DISTRIBUTION: City Manager
City Attorney
City Clerk (2)
Staff (4)
File

Duane V. Heldt
Corner Office Sports Bar and Grill
580 Anton Boulevard, #201
Costa Mesa, CA 92626

Stephanie Potter
Corner Office Sports Bar and Grill
580 Anton Boulevard, #201
Costa Mesa, CA 92626

Eric Strauss
America West Properties
26302 La Paz Road #215
Mission Viejo, CA 92691

Roger Allensworth
P.O. Box 68021-256
Anaheim, CA 92817

Law Offices of Robert C. Hawkins
110 Newport Center Drive, Suite 200
Newport Beach, California 92660

- ATTACHMENTS:
1. Location Map
 2. Plans
 3. Draft City Council Resolution revoking PA-9510
 4. Exhibit "A" Draft Findings
 5. Draft City Council Resolution reversing Commissions decision
 6. Exhibit "A" Draft Findings
 7. Appeal
 8. Minutes from Planning Commission Meeting of February 13, 2006
 9. Planning Staff Reports And Attachments
 10. Planning Commission Resolution

File Name: 030706pa9510Appeal

Date: 022306

Time: 2:00p.m.

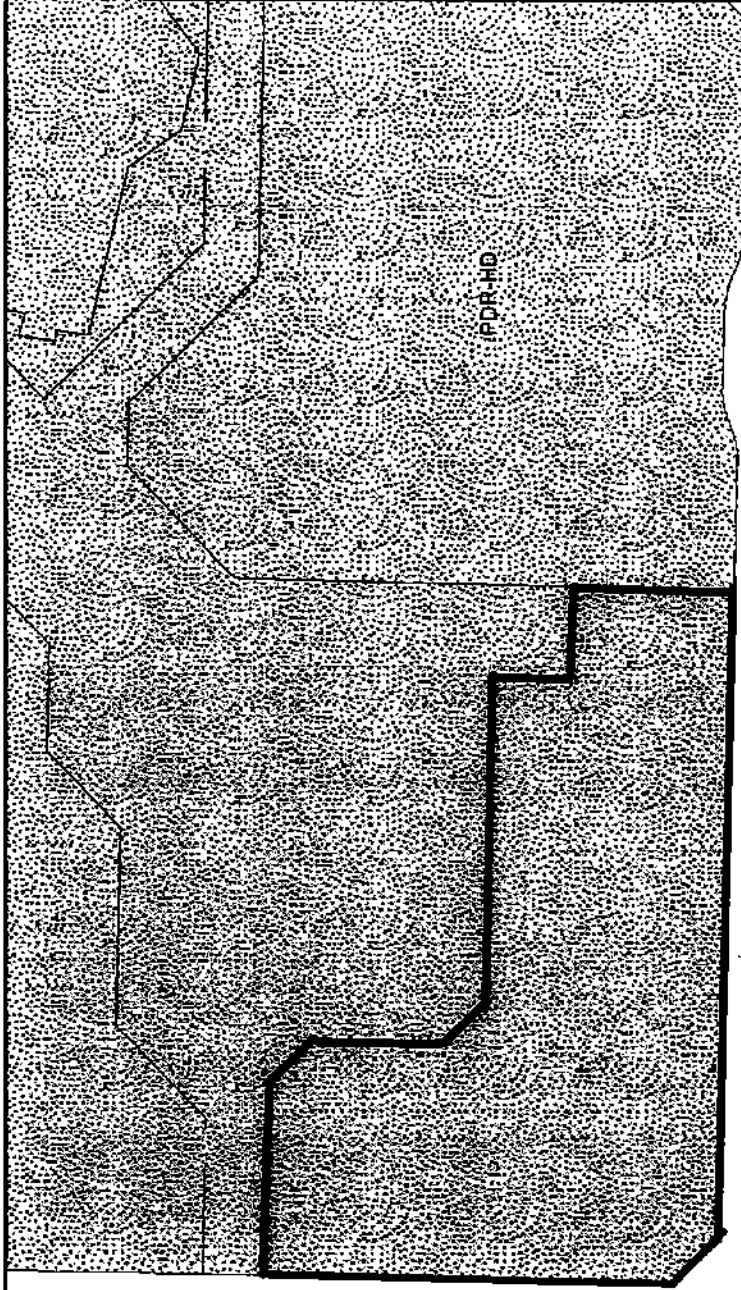
ZONING/LOCATION MAP

PA-95-10

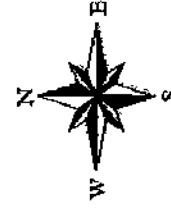
Legend

Street Names
Zoning

AP	AP
C1	C1
C1-S	C1-S
C2	C2
CL	CL
IGR	IGR
IGR-S	IGR-S
MG	MG
MP	MP
P	P
PDC	PDC
PDI	PDI
PDR-HD	PDR-HD
PDR-LD	PDR-LD
PDR-MD	PDR-MD
PDR-NCM	PDR-NCM
R1	R1
R2-HD	R2-HD
R2-MD	R2-MD
R3	R3
TC	TC



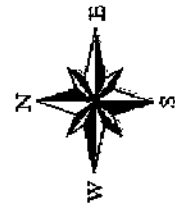
ANTON BLVD

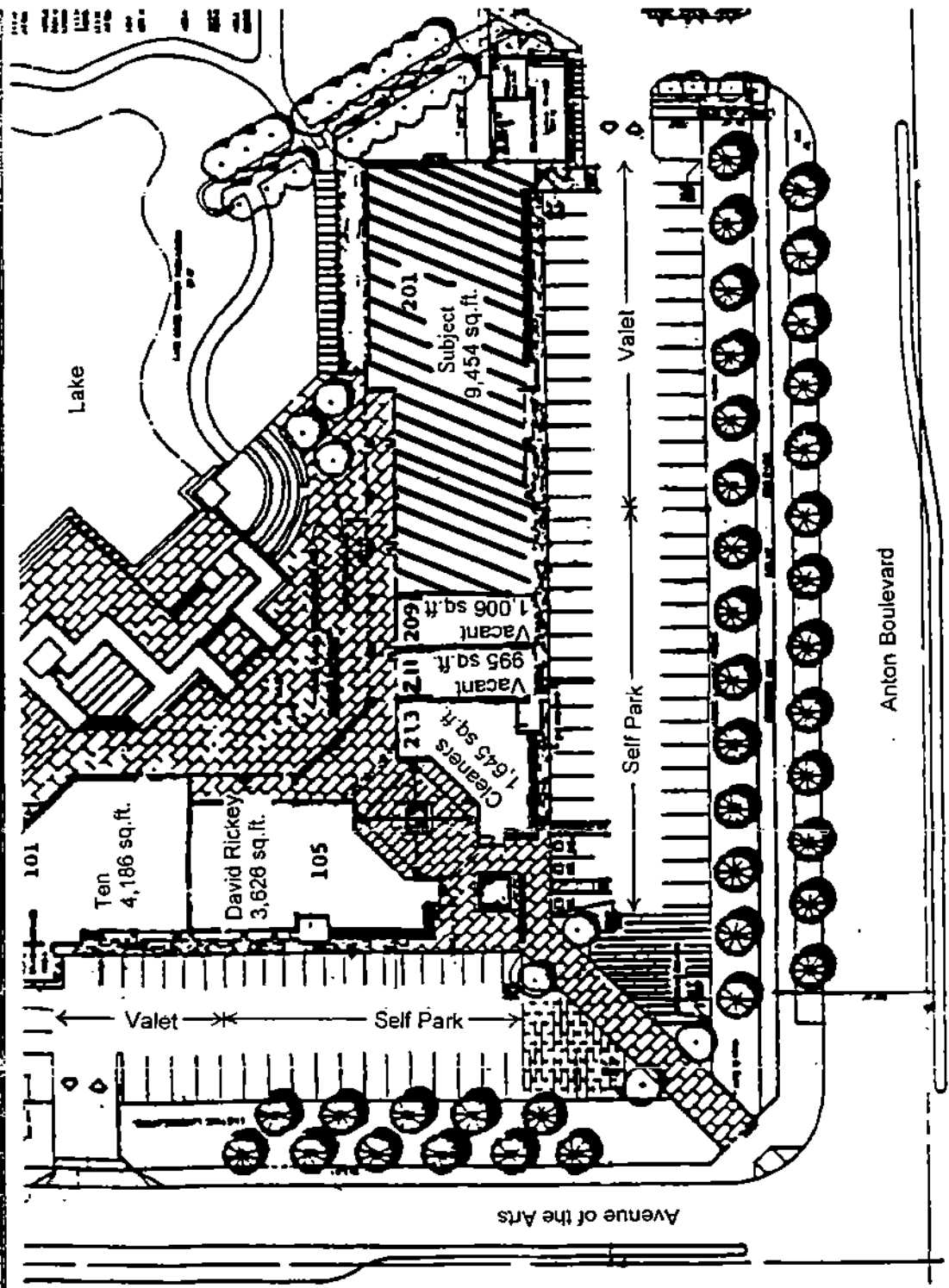


580 ANTON BLVD., #201

Legend

Street Names
Ortho
Photography





Initial _____
 Initial _____

RESOLUTION NO. 06-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
COSTA MESA REVOKING CONDITIONAL USE PERMIT PA-95-
10**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS
FOLLOWS:

WHEREAS, an application was approved, with respect to the real property located
at 580 Anton Boulevard, #201, for an existing sports bar and restaurant (Corner Office
Sports Bar and Grill) conditional use permit; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on
February 13, 2006, and PA-95-10 was revoked by the Planning Commission; and,

WHEREAS, on February 17, 2006, the revocation of PA-95-10 was appealed to City
Council; and,

WHEREAS, a duly noticed public hearing was held by the City Council on March
7, 2006.

BE IT RESOLVED that, based on the evidence in the record and the findings
contained in Exhibit "A", the City Council hereby **REVOKES** Conditional Use Permit PA-
95-10 with respect to the property described above.

PASSED AND ADOPTED this 7th day of March, 2006.

ATTEST:

Deputy City Clerk of the City of
Costa Mesa

Mayor of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"

FINDINGS

- A. The use, does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
- The use is not compatible and harmonious with uses on surrounding properties.
 - The use is not consistent with the General Plan.
 - The planning application is for a project-specific case and does not establish a precedent for future development.
- B. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) in that the use, is not compatible with developments in the same general area. Specifically, despite the efforts of the Police Department to work with the operators of the establishment to prevent further problems, two major incidents occurred at the establishment. The use is detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity.
- C. The use as operated or maintained does not comply with the conditions of approval as required by Costa Mesa Municipal Code Section 13-29(o)(2). Specifically, conditions of approval pertaining to the maximum capacity and supervision of patrons, and drinking outside of the building.
- D. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA.
- E. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

RESOLUTION NO. 06-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF COSTA MESA REVERSING THE PLANNING
COMMISSION'S DECISION TO REVOKE CONDITIONAL
USE PERMIT PA-95-10**

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS
FOLLOWS:

WHEREAS, PA-95-10 was approved, with respect to the real property located at
580 Anton Boulevard, #201, for conditional use permits for an existing sports bar and
restaurant (Corner Office Sports Bar and Grill); and,

WHEREAS, a duly noticed public hearing was held by the Planning Commission
on February 13, 2006 and PA-95-10 was revoked by the Planning Commission; and,

WHEREAS, on February 17, 2006, the revocation of PA-95-10 was appealed to
City Council; and,

WHEREAS, a duly noticed public hearing was held by the City Council on
March 7, 2006,

NOW, THEREFORE, BE IT RESOLVED that, based on the evidence in the
record and the findings contained in Exhibit "A", the City Council hereby **REVERSES**
the Planning Commission's revocation of Conditional Use Permit PA-95-10 for the
property described above, and reaffirms PA-95-10 remains in effect.

BE IT FURTHER RESOLVED that the Costa Mesa City Council does hereby find
and determine that adoption of this resolution is expressly predicated upon applicant's
compliance with each and all of the conditions contained in Exhibit "B". Should any
material change occur in the operation, or should the applicant fail to comply with the
Conditions of Approval, then this Resolution, and any recommendation for approval
herein contained, shall be deemed null and void.

PASSED AND ADOPTED this 7th day of March, 2006.

ATTEST:

Deputy City Clerk of the City of
Costa Mesa

Mayor of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"

**CITY COUNCIL FINDINGS
REVERSING THE PLANNING COMMISSION'S DECISION
TO REVOKE PA-95-10**

1. (City Council needs to verbalize findings with a motion to adopt this resolution)
- 2.
- 3.

RECEIVED
CITY OF COSTA MESA
P. O. Box 1200
Costa Mesa, CA 92628-1200

2006 FEB 17 PM 1:54

FEE: \$ 955.00

APPLICATION FOR REVIEW, APPEAL OR REHEARING

Applicant Name CORNER OFFICE SPORTS BAR AND GRILL
Address 580 ANTON BLVD #201 COSTA MESA, CA 92626
Phone 714-979-9922 Representing* _____

REQUEST FOR: ☐ REVIEW** ☒ APPEAL ☐ REHEARING

Decision of which review, appeal or rehearing is requested: (give number of rezoning, zone exception, ordinance, etc., if applicable, and the date of the decision, if known.) REVOKING OF CONDITIONAL USE

PERMIT PA-95-10PLANNING COMMISSION AGENDA MEETINGFEB. 13, 2006

Decision by: _____

Reasons for requesting review, appeal or rehearing: _____

Corner Office Sports Grill is appealing the revocation of Conditional Use Permit PA 95-10. The decision to revoke said CUP was based on the incidents cited in the Costa Mesa Police reported January 25, 2006. The existing Conditional Use Permit pertains to the extended space (banquet room) of the Corner Office Restaurant. The incidents cited in the police report have no association to the extended space (banquet room) and should have no impact on its continued operation.

Corner Office is requesting a modification of existing Conditional Use Permit PA 95-10 to keep two billiard tables in addition to the two existing electronic games in the restaurant and none in the banquet facility.

Date: 2/17/06 Signature: Duane V. Heldt

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:
If review, appeal or rehearing is for person or body other than City Council/Planning Commission, date of hearing of review, appeal or rehearing:

MARCH 7, 2006

* If you are serving as the agent for another person, please identify the person you represent and provide proof of agency.
** Review may be requested only by City Council or City Council Member
Costa Mesa/Forms1/Application for Review-Appeal-Rehearing

Excerpt from the minutes of the Planning Commission meeting of February 13, 2006

PLANNING APPLICATION

PA-95-10

Allensworth/Strauss

The Chair opened the public hearing for consideration to revoke Planning Application PA-95-10 for Eric Strauss, authorized agent for Barbara and Roger Allensworth, for a 90-day review of conditions of approval for a conditional use permit for the expansion of an existing sports bar into the adjacent space to allow 6 billiards tables and 4 or more electronic game machines, located at 580 Anton Boulevard #201, in a PDR-HD zone. Environmental determination: exempt.

Senior Planner Mel Lee reviewed the information in the staff report and gave a presentation. He said if the conditional use permit is revoked this evening, it would do the following: (1) it would return the Corner Office to its original footprint; (2) it would not allow this facility to be used as ancillary banquet facilities; (3) the two remaining billiard tables will be required to be removed, (4) the two electronic game machines (code allows up to 4 without a CUP) would remain, and (5) the restaurant could continue to be operated as a restaurant per our City code which requires an 11 p.m. closing time. Currently, under their present CUP, they are allowed to stay open until 1 p.m. with meeting rooms concluding operations at 10 p.m. He said staff was recommending revocation of the conditional use permit for Planning Application PA-95-10, based on testimony in Police Department reports over the past 3 months.

In response to a question from Commissioner Garlich regarding operation of the banquet room, Mr. Lee explained that because the operation of the banquet room is related to the operation of Corner Office, if their CUP is revoked this evening, that would prohibit them from utilizing the banquet room for any purpose since the parking requirement is different for a meeting room or banquet facility versus a restaurant that is parked at 4 per 1,000.

Lt. Karl Schuler, Costa Mesa Police Department, said in response to the meeting that took place on October 10, 2005, Police Department staff met with the ownership, management and legal staff of the Corner Office Sports Grill at their facility in the morning to establish a working relationship with the Police Department and Corner Office staff. At that time, it was felt there was a good understanding of how things would be resolved at that location and they all felt the best way to do that was through communications. A proposal was written up for enforcement and a copy was given to legal staff and management/ownership of the Corner Office. Since that time, on November 19, 2005, there was an assault with deadly weapon that took place inside the facility during business hours and did not get reported until 2.5 hours after the fact. On December 3, 2005, the Police Helicopter crew was flying over the area of the Corner Office facility; they were warned by the tower at Orange County Airport that there was an object in the air near their location. The

crew observed a helium balloon the size of a small couch, flying at about 800 feet above the ground. When they looked down, they saw an individual tying this balloon onto a vehicle parked in the front parking lot of the Corner Office Sports Bar & Grill. He said the culmination of these two incidents indicated to police that there was not sufficient security on hand at that location. More importantly, January 4, 2006, the night of the Rose Bowl game (the occupancy level is 234 people posted at the entrance) the police went to the Corner Office Sports Bar & Grill for patrol check and found there were approximately 500 people on the premises. Police officers requested management staff to reduce the number of patrons in order to obtain the legal level of occupancy. There were additional violations discovered at that time (drinking outside on the patio). Lt. Schuler stated that even though this restaurant has been under the watchful eye of the police, it is the Police Department's opinion, that the ownership and management have not been responsible and for that reason they support staff's recommendation to revoke the conditional use permit of the Corner Office Sports Bar and Grill.

There was discussion between the Chair and Lt. Schuler with regard to the details of each of the incidences including the number of police officers that were used to resolve the issues.

Duane Heldt, one of the current operators for Corner Office Sport Bar & Grill, 570 Anton Boulevard, Costa Mesa, stated that in Lt. Schuler's report he has said nothing about the banquet room or the 2 pool tables. At this time, they have board meetings; an astrology club; The Orange County Ski Club; etc., in that banquet room and they are always out of there by 9:30 in the evening. He did not believe the banquet should not be closed off. He said they pay approximately \$5,000/month in rent, plus utilities and maintenance. He said closing the banquet room could hurt them financially. Mr. Heldt felt that changing the hours of operation would have an impact on the business, but they could live with that.

There was discussion between Commissioner Garlich and Mr. Heldt concerning his legal advice. He said he originally wanted an extension to seek legal advice and indicated he would be appreciative if the Commission would give that consideration.

In response to the Chair regarding the helium balloon, Mr. Heldt said he never knew anything about it until Lt. Schuler told him a week ago. He said he was there that day because the Army/Navy game was in progress at the time.

In response to the Chair regarding the assault with a deadly weapon, Mr. Heldt said the man refused to take medical help

from the paramedics. In response to the Chair's concern about the incident regarding the number of people in the restaurant when police came to spot check, Mr. Heldt said he remembered they were very busy that night but he felt the number of 500 had been totally inflated. He did admit there were too many people there that evening.

In response to the Chair regarding why she did not call the police Stephanie Potter, 580 Anton Boulevard, Suite 201, Costa Mesa, stated that when the incident occurred, the victim did not want anyone to call the police or get medical help. She said she insisted on getting the victim medical help because she felt that was what Lt. Schuler would have wanted her to do and get a report done immediately.

No one else wished to speak and the Chair closed the public hearing.

MOTION:
PA-95-10
Revoked

A motion was made by Commissioner Egan, seconded by Commissioner Garlich and carried 5-0 to revoke Conditional Use Permit PA-95-10, by adoption of Planning Commission Resolution PC-06-08, based on public testimony, analysis and information in the Planning Division staff report and findings contained in exhibit "A."

During discussion on the motion, Commissioner Egan stated that when the Commission first heard this matter about 90 days ago, there was testimony about obtrusive calls for service for: vandalism and battery, 2 victims injured and multiple arrests were made; numerous DUI arrests, assaults with a deadly weapon, a stabbing, patron drinking, or had alcoholic beverages on the patio in violation of the ABC license, a victim was raped at the bar, and a shooting which was the result of a birthday party celebration in the rear room was pushed out into the parking lot where numerous shots were fired. At that time, the Commission bent over backwards to preserve the property owner's investment. Hoping that we would be protecting the public safety at the same time, one of the 2 CUP's was revoked and restricted hours of operation and added other conditions were put into place. Ninety days later, there has been another "assault with a deadly weapon." Commissioner Egan said she felt the Commission has to do what they can to protect public safety because somebody is going to get killed. She said she is not inclined to continue the matter—the owner has the opportunity to appeal the revocation to the City Council should the Commission go that route.

Commissioner Garlich agreed with Commissioner Egan's assessment and said his core concern is exactly what she said, somebody is going to get killed over there if the Commission doesn't do something, and do it tonight. He felt he had personally gone the extra

mile in the last hearing and stuck his neck out to try to give the owners and operators the benefit of the doubt. Since then, three incidents have taken place, one of which was assault with a deadly weapon. He felt the key phrase he heard tonight was, "unbeknownst to me." He said everything that goes on over there seems to be "unbeknownst" to the people who are running this operation. He said the only thing the Commission can do this evening, is to revoke the conditional use permit, and further, he did not support an extension or a continuance either. He said the work that was done by the previous attorney may or may not have been satisfactory to his client, but for the record, his attorney did call him (Commissioner Garlich) over a week ago. He does not want our Police Department to have to use their resources to enforce these kinds of conditional uses. The only way we know what's going on is if our police officers go there and monitor it. Under the current basic discretionary approval that exists, they can operate as restaurant until 10 p.m. He said that people, who can't tell that there are 500 people in a room, maybe wouldn't be able to tell when it's 10 p.m. He said he has no confidence that anything is going to be enforced, and he doesn't want anybody killed at that restaurant on his watch.

The Chair said he also supports this motion. He said he was also concerned when he heard the owner say he did not know when something happened. He felt owners, operators and management of restaurants, bars, etc., should all be mindful, especially where alcohol is concerned.

Vice Chair Hall said he was going to make a substitute motion, but having heard the Commission's testimony, he believed it would be a waste of time to continue the item. He said he sees the opportunity for the operators of the Corner Office Sports Bar and Grill to appeal to the City Council as somewhat of a continuation. He said he would rather see it continued, but he would support the motion.

Commissioner Fislser said he would support the motion and that on October 10th of last year, Commissioners Egan, Garlich, and himself, voted to help the restaurant. He felt that by revoking PA-03-39, there would be live music and a DJ; that it would *fix* the problem and he didn't want to add a fatal blow to this business without giving them that chance. Now, he does not think that was the answer so he would support the motion.

The Chair explained the appeal process.



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: FEBRUARY 13, 2006

U.3.
ITEM NUMBER:

SUBJECT: 90-DAY REVIEW OF CONDITIONAL USE PERMIT PA-95-10
CORNER OFFICE SPORTS BAR AND GRILL
580 ANTON BLVD. #201

DATE: FEBRUARY 3, 2006

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611

PROJECT DESCRIPTION

Review of conditional use permit PA-95-10 for an existing sports bar/restaurant (Corner Office Sports Bar and Grill) for either possible modification to the conditions of approval or revocation.

APPLICANT

The operators of Corner Office Sports Bar and Grill are Duane V. Heldt and Stephanie Potter. The property owner is Roger Allensworth.

RECOMMENDATION

Revoke conditional use permit PA-95-10 by adoption of Planning Commission resolution.

MEL LEE, AICP
Senior Planner

R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

BACKGROUND

On October 10, 2005, Planning Commission conducted a review of Conditional Use Permits PA-03-39 and PA-95-10 for Corner Office Sports Bar and Grill. PA-95-10 allowed the expansion of the business, then called Legends Sports Bar, into an adjacent restaurant space to allow 6 billiards tables and 4 or more electronic game machines¹. PA-03-39 allowed live entertainment consisting of a combination of karaoke, live music, mobile disc jockey, and dancing on various nights.

Both CUP's were brought before the Commission for review because of problems related to the operation of the establishment documented by Police and Code Enforcement staffs. At the hearing, the Commission revoked PA-03-39 (which allowed live entertainment and dancing) with the consent of the operators, and modified the conditions of approval for PA-95-10 to further restrict the operation of the establishment, with the requirement that the CUP be brought back within 90 days for review by the Commission.

Copies of the meeting minutes, resolutions and staff reports for PA-03-39 and PA-95-10 are attached for reference.

ANALYSIS

At the hearing, the following conditions of approval were added and/or modified for PA-95-10:

- Condition No. 2(A): Daily hours of operation shall be restricted to the period between 9 a.m. and 1 a.m. with a review after 90 days and another after 90 additional days.
- Condition No. 2(B): There shall be no use of outdoor seating or tables in conjunction with this use; there shall be no service of alcoholic beverages outside the building.
- Condition No. 8: Private parties shall terminate no later than 10 p.m. (Private parties are defined as a group using a separate room for an event of their own.)
- Condition No. 9: There shall be no paid parties (where persons have to pay to get in).

The purpose of these conditions were to minimize the calls for Police service to the establishment, which were related to the private parties and late operating hours at the establishment.² According to the most recent report prepared by the Police Department dated January 25, 2006 (a copy of which is attached to this memo), despite the efforts of the Police Department to work with the operators of the establishment to prevent further Police problems, two major incidents involving Police activity occurred at the

¹ The establishment currently has 2 billiard tables and 2 electronic game machines, both of which are located in the main restaurant/bar area; the adjacent space that was approved for the expansion is currently used as a banquet room for private parties.

² Live entertainment and dancing were prohibited once the Commission revoked PA-03-39.

Roger Allensworth
P.O. Box 68021-256
Anaheim, CA 92817

Law Offices of Robert C. Hawkins
110 Newport Center Drive, Suite 200
Newport Beach, California 92660

File: 021306PA9510	Date: 020106	Time: 9:00 a.m.
--------------------	--------------	-----------------

establishment in the past 90 days; the first on November 19, 2005 involving an assault with a deadly weapon, and the second on January 4, 2006 involving a situation of overcrowding which resulted in the deployment of nearly all available on-duty patrol officers. These incidents were the result of the operators failing to comply with the following conditions of approval for the CUP:

Condition Of Approval	Violation
2(B): There shall be no use of outdoor seating or tables in conjunction with this use; there shall be no service of alcoholic beverages outside the building.	Rear door to the business was open; patrons observed drinking on the patio outside the building. (January 4, 2006 incident).
2(D): The supervision of the patrons on the premises shall be adequate to ensure there is no conduct that is detrimental to the public health, safety, and general welfare. 2(H): The business shall be conducted at all times in a manner that will allow for the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute necessary security and operational measures to comply with this requirement	Insufficient security staff provided for supervision of patrons. (November 19, 2005 and January 4, 2006 incidents).
6: The maximum occupancy, as determined by the Uniform Building Code or other applicable codes, shall be posted in public view within the premises. It shall be the responsibility of management to ensure that the maximum allowable occupancy is not exceeded at any time.	The posted capacity for the establishment is 234; 500 persons observed within the establishment. (January 4, 2006 incident).

Based upon the applicant's failure to comply with the conditions of approval, and the severity of the violations, the Police Depart is recommending that PA-95-10 be revoked, rather than have the establishment continue to operate in its present form for another 90 days per condition no. 2(A). If the CUP were revoked, the following activities per PA-95-10 would be required to cease operation at the site:

1. The establishment would be required to close at 11:00 p.m. per Code Section 13-47;
2. The billiard tables would be required to be removed and electronic games limited to no more than 4 per Code Section 13-160;
3. The establishment would be required to return to its original footprint (i.e., the banquet room expansion allowed under PA-95-10 would be eliminated).

If the CUP is revoked, the establishment would still be allowed to operate as a restaurant, within its originally approved foot print, per the original master plan approved for the site, subject to the provisions of the Code as they pertain to restaurants (Code Section 13-47). However, if problems continue to persist, the Commission may modify the master plan approved for the site to further reduce or eliminate the restaurant.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. Revoke the conditional use permit;
2. Modify the conditions of approval for PA-95-10; or
3. Retain the conditions of approval for PA-95-10 with no modifications for an additional 90-day review period.

CONCLUSION

The operation of the Corner Office does not comply with the conditions of approval and is detrimental to the public health, safety, and general welfare. Therefore, staff is recommending the CUP be revoked.

Attachments: Draft Planning Commission Resolution
 Exhibit "A" – Findings
 Police Department Memo
 Minutes of the October 10, 2005 Planning Commission Meeting
 Zoning/Location Map
 Plans
 Resolutions and Staff Reports for PA-95-10 and PA-03-39

cc: Deputy City Manager-Dev. Svs. Director
 Deputy City Attorney
 Police Department – Area II Commander
 City Engineer
 Fire Protection Analyst
 Staff (4)
 File (2)

Duane V. Heldt
Corner Office Sports Bar and Grill
580 Anton Boulevard, #201
Costa Mesa, CA 92626

Stephanie Potter
Corner Office Sports Bar and Grill
580 Anton Boulevard, #201
Costa Mesa, CA 92626

Eric Strauss
America West Properties
26302 La Paz Road #215
Mission Viejo, CA 92691

JANUARY 25, 2006
POLICE DEPARTMENT MEMO

**CITY OF COSTA MESA
POLICE DEPARTMENT
INTER OFFICE MEMORANDUM**

TO: Mel Lee, Senior Planner

FROM: Lieutenant Karl Schuler, Area II Commander

SUBJECT: Update on Corner Office Sports Grill Activity

DATE: January 25, 2006

PURPOSE:

Update appropriate City Staffs on the activity level at the Corner Office Sports Grill since the Planning Commission Hearing on October 10, 2005.

BACKGROUND:

At the October 10, 2005 Planning Commission Hearing, the Corner Office Sports Grill was allowed to continue business with the following conditions:

- No live entertainment, Disc Jockey or dancing.
- Private parties are permitted with an ending time of no later than 10:00 pm.
- Closing time will be no later than 1:00 am.

These conditions were placed on the Corner Office Sports Grill as a result of ongoing criminal activity, as well as, constant violations of City Municipal Codes.

ANALYSIS:

On October 13, 2005, police department staff met with Corner Office Sports Grill ownership, management, and legal staff, to discuss a partnership between their associates and the police department staff. The meeting was very educational, and it set the ground rules for a positive working relationship. As a result, police department staff composed a memorandum outlining the method in which the

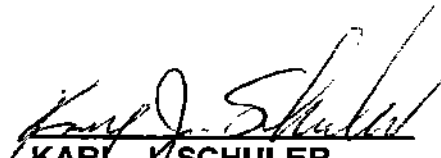
patio, directly violates the Corner Office Sports Grill's conditional use permit. Police department staff has documented these same types of violations since 2004.

During the Planning Commission Hearing on October 10, 2005, the Commission made it clear that any future violations of the Corner Office Sports Grill conditional use or entertainment permits would not be tolerated. Additionally, police department staff met with Corner Office Sports Grill ownership and management in order to set ground rules for a good working relationship with law enforcement. With all that City staffs have done to make it clear what the Corner Office Sports Grill must do to comply with the Planning Commission's requests, Corner Office Sports Grill ownership and management has neglected to abide.

Corner Office Sports Grill ownership is in direct violation of Costa Mesa Municipal Code section 9-201, (Revocation or Suspension of Permit) subsections b, c, d and e.

RECOMMENDATIONS:

Police department staff recommends the Planning Commission proceed with the revocation of the conditional use and entertainment permits granted to the Corner Office Sports Grill.


KARL J. SCHULER
Lieutenant

TIFFANY, JANE

PA-95-10

From: LEE, MEL
Sent: Wednesday, February 01, 2006 1:08 PM
To: TIFFANY, JANE
Cc: ROBINSON, MIKE; SMITH, RONALD; SCHULER, KARL
Subject: RE: Corner Office Follow-up

Karl - thank you. Jane, please print a copy of this e-mail for the Commission packets (PA-95-10).

Mel

-----Original Message-----

From: SCHULER, KARL
Sent: Wednesday, February 01, 2006 12:50 PM
To: LEE, MEL
Cc: ROBINSON, MIKE; SMITH, RONALD
Subject: Corner Office Follow-up

Mel,

I spoke to Officer Rob Dimel on Monday (January 30) regarding an issue that took place at the Corner Office on December 3, 2005. Officer Dimel was the observer in our Police Helicopter on that date, which was the date of the Army Navy football game. Someone at the Corner Office rose a helium balloon that was advertising the support of the Army Navy football game. The balloon was the size of a couch and the helicopter pilot came close to striking it, as he did not see it until the last second. It was so large that personnel in the John Wayne Airport Tower saw the balloon. The balloon was being flown at an altitude of approximately 800 feet.

Officer Dimel looked to the ground and saw people tying the balloon off on a parked car at the Corner Office.

I know this is too later for your report, but it is another issues of a lack of security and concern on behalf of Corner Office ownership and management.

Karl

**OCTOBER 10, 2005
PLANNING COMMISSION MINUTES**

GENERAL PLAN AMENDMENT
GP-05-04 AND REZONE
PETITION R-05-03

Harbor Center Partners/Meldrum

The Chair opened the public hearing for consideration of General Plan Amendment GP-05-04 and Rezone Petition R-05-03 for Mick Meldrum/ICI Development Company Inc., for Harbor Center Partners L.P., to operate a recreational vehicle storage facility on a 1.49-acre parcel, located at 2300 Harbor Boulevard/380 West Wilson Street, currently in a C1-S and R3 zone. Environmental determination: Mitigated Negative Declaration.

(a) GENERAL PLAN AMENDMENT GP-05-04/REZONE PETITION R-05-03 to change the General Plan land use designation from High Density Residential to General Commercial and to rezone from R3 (Multiple Family Residential District) to C1-S (Shopping Center District) for property located at 2300 W. Wilson Street.

(b) PLANNING APPLICATION PA-05-22 for a master plan amendment and conditional use permit to operate a recreational vehicle storage facility with a variance from maximum wall height (6 feet maximum wall height allowed; 8-12 feet wall height proposed), for properties located at 2300 Harbor Boulevard in a C1-S zone and 380 W. Wilson Street in an R3 zone, (rezone request to C1-S pending).

Senior Planner Mel Lee said that staff was recommending a continuance of this item to the Planning Commission meeting of November 14, 2005 due to an error in the public notice and that the continuance would allow staff to provide proper notice.

MOTION
GP-05-04/R-05-03/PA-05-22
Continued

A motion was made by Chair Perkins, seconded by Commissioner Egan and carried 5-0 to continue this item to the Planning Commission meeting of November 14, 2005.

REVIEW OF PLANNING
APPLICATIONS PA-95-10 AND
PA-03-39

City

The Chair opened the public hearing for review of Planning Applications PA-95-10 and PA-03-39 for Eric Strauss/Duane Heldt and Stephanie Potter, authorized agent for Barbara & Roger Allensworth, for possible revocation and/or modification to the conditions of approval for an existing sports bar/restaurant (Corner Office Sports Bar & Grill), located at 580 Anton Boulevard, Suite 201, in an PDR-HD zone. Environmental determination: exempt.

Senior Planner Mel Lee reviewed the information in the staff report and made a presentation. He said staff was recommending revocation of Conditional Use Permit PA-03-39 and modifications of the conditions of approval for Conditional Use Permit PA-95-10.

Lt. Karl Schuler of the Costa Mesa Police Department introduced Corporal David Makiyama who gave a brief history of police service at the Corner Office Sports Bar & Grill. He said that the Corner Office Sports Bar & Grill was a part of his response area during 2004. Corporal Makiyama described an increase in complaints for loud music and drunken patrons resulting in the need for extra patrols. More obtrusive calls for service were made for: vandalism and battery (2 victims injured and multiple arrests were made); there were numerous DUI arrests; assault with a deadly weapon (stabbing); patrons drinking or had alcoholic beverages on the patio in violation of the ABC license; a victim was raped at the bar; and a shooting which was the result of a birthday party celebration in the rear room that was pushed out into the parking lot and where numerous shots were fired.

Lt. Schuler stated that as the Area Commander for Area 2, when he determined through Corporal Makiyama's reports how much activity was taking place, he decided to meet with the co-owners of the business (Duane Heldt and Stephanie Potter). He said they told him the reason they were having problems at the restaurant was due to the fact that they had hired a promoter for parties and events and they were getting "unsavory" type people into their business. They assured Lt. Schuler that this promoter would no longer be working

Robert Hawkins, attorney from Newport Beach representing the applicant (The Corner Office Bar & Grill) stated that they have reviewed the staff report, but he has not had an opportunity to review it in detail because he was just retained on this date, and they do not accept the conditions or the action item that staff has proposed. He thanked the Commission for this opportunity to review the matter.

Mr. Hawkins stated that the Police Department supported the application (PA-03-39) for live entertainment noting, "no previous problems with the business." Based upon that notation, the Planning Commission made certain findings one of which said again, "the Police Department notes no previous problems with this business." He said what is being proposed in the revocation is to return the establishment to an earlier time.

Mr. Hawkins said he was not minimizing the seriousness of the security problems and they all understand that, but they are here to encourage the Commission's consideration of their proposal. Mr. Hawkins made the point that this a high-class sports bar which caters to professionals and is listed on various websites as one of the top 3 sports bars in Orange County. He proposed that: (1) they will surrender the "Live Entertainment Permit" because they believe this is what has created their problems. (2) They continue the hearing on Conditional Use Permit PA-95-10 for 6 months to allow time to evaluate how this situation will return to what they regard as normal; there will be no live entertainment during that six-month period. (3) They will return to the time when there were only 5 incidents during a year. The owners believe the live entertainment brought in an element, which conflicted with the business and it was a financial disaster for his clients.

Commissioner Garlich noted that the conditions of approval for PA-03-39 allowed the operation to be open until 2 a.m. and he heard earlier it was 1 a.m. Lt. Schuler said when he met with the applicants in February of 2005, they agreed to close at 1 a.m. as he requested.

In response to a question from the Chair regarding Mr. Hawkins' description of the sports bar clientele and the element of conflict in live entertainment, Mr. Hawkins said with respect to the private parties, that is a problem because of the ambiguity of private parties as Commissioner Garlich has mentioned. He said their concerns are that many of these parties are corporate parties and many of their competitors will not be having the security problems that the applicants have experienced. The problems he was referring to are the ones the officers are legitimately complaining about. He said these security problems are unacceptable for his clients and the proposal is to eliminate that live entertainment. Eating and drinking establishments often run promotions and that's not what creates these problems; it is the heavy marketing with a lot of people coming in from out of the area and there is no telling what will happen. He said from their perspective, the live entertainment "adventure" created problems for which they truly apologize.

The Chair and Corporal Makiyama discussed the birthday party shooting and whether it was considered a "private party", and whether those attending were corporate patrons.

Commissioner Egan proposed conditions to be added to the conditions of approval (shown below in the motion). These conditions were discussed between the members of the Commission.

Mr. Hawkins responded that he did not believe under normal operations outside of the live entertainment, there is a cover charge. He said with respect to the hours for private parties, which are in a sepa-

hotels (the Marriott and Wyndham) and places like the Macaroni Bar & Grill. He said they do not advertise "happy hour" like their neighbors do and don't encourage people to drink after those hours, but they do want to be able to keep the place open.

Mr. Hawkins reiterated that the substantial clientele of the sports bar after 11 p.m. saying that those folks are going to go somewhere and from their perspective, given the fact that the earlier operation under PA-95-10 was not problematic, he restated their proposal. He also pointed out there was only one public speaker this evening and there was not a substantial number of people that are aggrieved, or aggravated by the operation. He said they are concerned, and they believe returning the operation to the conditions set forth in PA-95-10 and continuing this matter for six months will work and is their proposal.

Commissioner Fisler asked when Mr. Heldt took over management of this property. Mr. Hawkins said it was his understanding that he began operations about 5 years ago.

No one else wished to speak and the Chair closed the public hearing.

A motion was made by Commissioner Egan, seconded by Chair Perkins and carried 5-0 to revoke Conditional Use Permit PA-03-39, by adoption of Planning Commission Resolution PC-05-66, based on public testimony, analysis and information and findings contained in exhibit "A."

During discussion on the motion, Commissioner Fisler asked if there was a difference between revoking the license and the applicants abandoning it as far as fines, or their standing with the City. The Chair said no.

Vice Chair Hall said that Commissioner Fisler brings up a point that he felt should be part of the record. The motion is to revoke that particular CUP and part of the record should be that the applicant has also offered to voluntarily abandon it.

In response to the Chair, Commissioner Egan said she was okay with that and said she would be willing to withdraw that motion and let the record reflect that PA-03-39 is voluntarily surrendered.

The Chair asked for clarification from Planning Commission Secretary R. Michael Robinson who said he was deferring to the City Attorney, but he believed that unless it is revoked, the CUP runs with the land so he preferred to have it revoked as staff recommended. Vice Chair Hall said that before the City Attorney even comments, he said the Commission should be positive on this and that he liked Commissioner Egan's original motion to revoke the permit.

The Chair stated that the original motion still stands and he is still the second; he then called for the question.

A motion was made by Commissioner Egan, seconded by Commissioner Garlich and carried 3-2 (Perkins and Hall voted no), to modify the conditions for Conditional Use Permit PA-95-10, by adoption of Planning Commission Resolution PC-05-67, based on public testimony, analysis and information, and findings contained in exhibit "A", subject to conditions in exhibit "B" with the following modifications:

Conditions of Approval

8. No Private parties shall be permitted terminate no later than 10 p.m. (Private parties are defined as a group using a separate room for an event of their own).
9. There shall be no paid parties (where persons have to pay to get in).

MOTION 1:
PA-95-10 AND PA-03-39
Revoked PA-03-39
Conditioned PA-95-10

MOTION 2:
PA-95-10
Modified

Now if the business suffers, the business suffers; that's their fault for not securing their location. His concerns lie in the fact that we cannot secure this location.

Commissioner Hall commented that with indifference to the attorney's comment that we can't set aside a room for some friends to get together because it might be considered a private party is ludicrous. He also felt the same way about limiting outdoor seating.

Commissioner Hall said the Commission has revoked a CUP because figuratively speaking, the people didn't mow the lawn. He said here we have a problem that has gone on and on for some time with many reasons to revoke the CUP, and yet we still try and help them out. He believed in 3 to 6 months they would be back, the police would be back and report again and the Commission would find a way to help again.

SUBSTITUTE MOTION:
PA-95-10
Failed

A substitute motion was made by Vice Chair Hall, seconded by Chair Perkins to revoke Conditional Use Permit PA-95-10. The motion failed to carry by a 2-3 vote (Egan, Garlich and Fisler voted no).

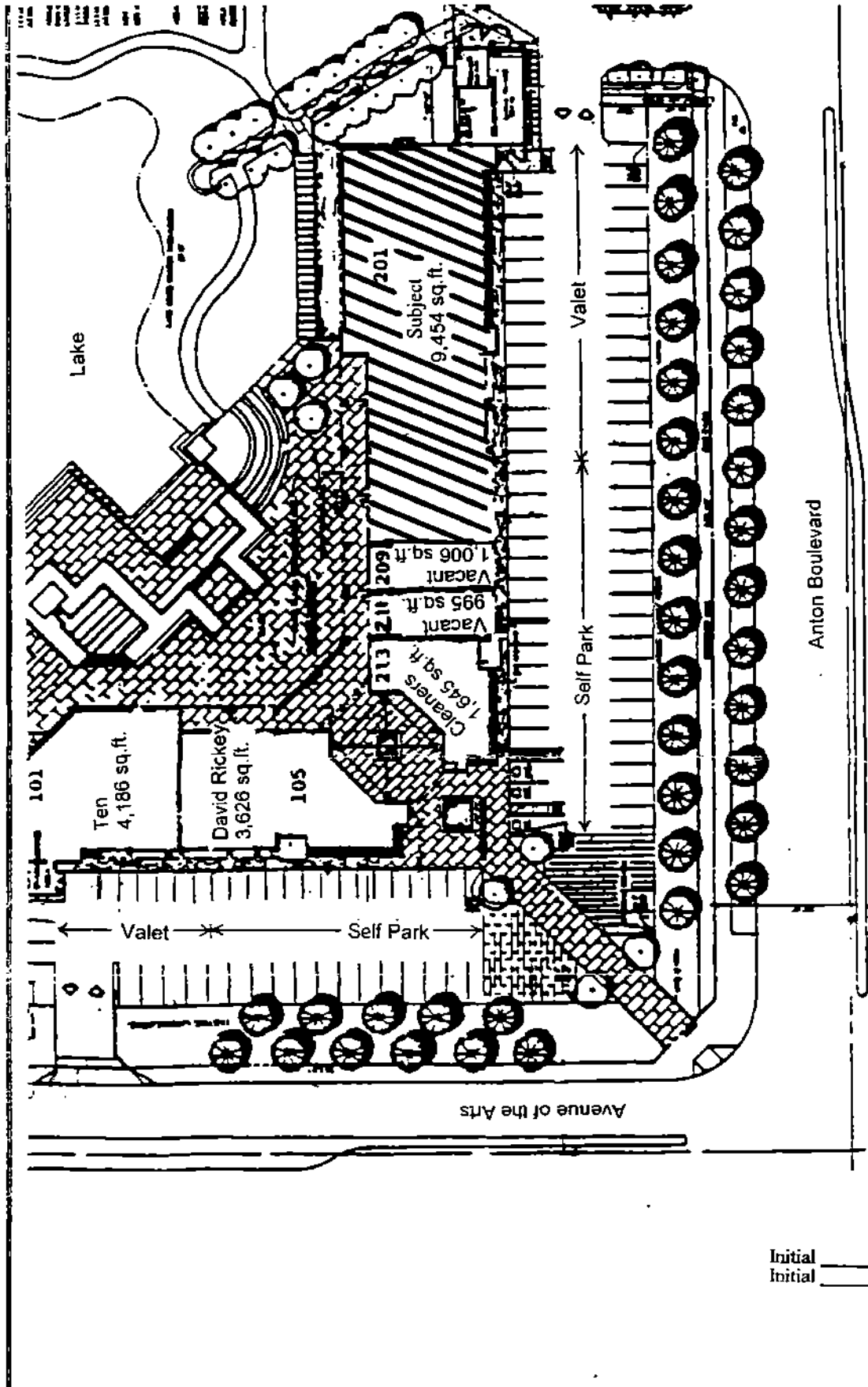
During discussion on the motion, Commissioner Fisler stated that he could not support that motion.

Commissioner Egan said she would like to make it very clear in the record that those of us who are not in favor of a total revocation, in essence, putting this person out of business entirely, are extremely concerned about the nuisance that it has become, and absolutely, our concern is to protect the public. She said that by not allowing live entertainment, not allowing dancing, not allowing the private parties after 10 p.m., and not allowing service out of doors, we are taking care of the problem. It is even more restrictive than the original conditional use permit under which there were few police problems. We are going back to that situation with some additional restrictions. The only thing left is what time do they close, or are they going to stay in business. If indeed, an 11 p.m. closing is called for, the Commission will know that, but with nothing there but a sports bar with some billiards and an after theatre crowd, it seems unlikely that the Commission has to go back to an 11 p.m. closing. If that's what's needed to protect public safety, that's what the Commission will do, but at this point she was not persuaded.

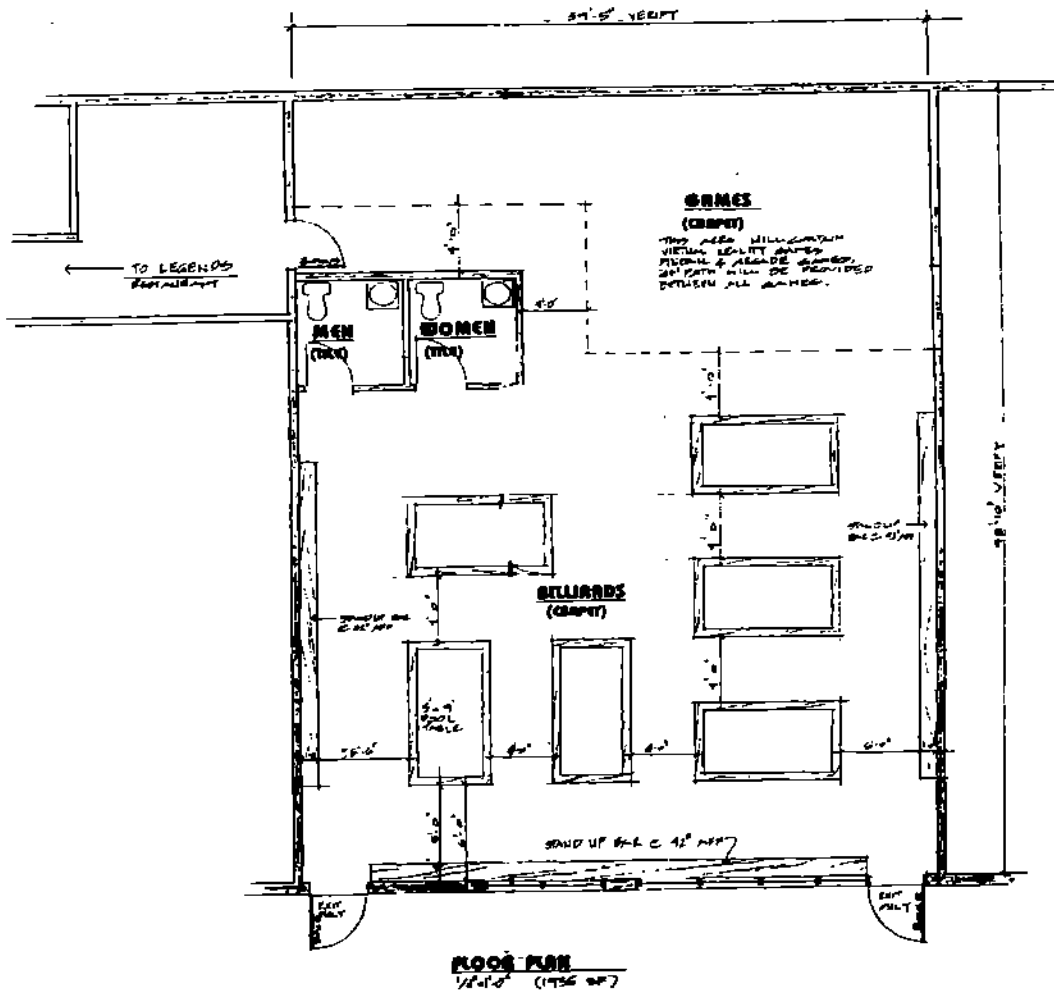
Commissioner Fisler said he goes to that area a lot and its unique and it does have a crowd afterwards at Jerry's Deli. He said definitely, as Commissioner Egan said, we recognize that there is a problem there and the applicant recognizes it and that it has not been handled well. He believed revoking PA-03-39 will handle that situation and it is why he supporting this motion. Further, he said by restricting their hours to 11 p.m., he believed it would be a fatal blow to that business. He was glad to see the applicant stopping the karaoke and live music. He was also glad to see the motion he supports from Commissioner Egan to allow them to operate until 1 a.m. with a review in 90 days.

Commissioner Garlich commented that Commissioner Egan said it well. From his own point of view, those who support this motion are just as concerned about battery, rape, shootings, and other criminal events as anyone else on the dais, and to suggest otherwise, he finds it offensive. ~~Second, the notion of allowing them to operate until 11 p.m. for 90 days and then saying, okay now they can operate until 1 a.m. makes absolutely no sense.~~ He felt they were doing the right thing and supported the motion.

Commissioner Egan said that regarding condition of approval #2G, she believed her reading of it is a little different than from Vice Chair Hall's reading of it. She said what we are telling them they



Initial
Initial



**OCCUPANCY TABULATION
FOR PROPOSED LOUNGE ROOM**

1786.5 S.F.	GAMES AREA
876.5 S.F.	BILLIARD TABLE
74.5 S.F.	SAND UP BAR
188.5 S.F.	TOILETS
1400.5 S.F.	
1488.5 S.F. / 18 OCCUPANTS/S.F. = 82 OCCUPANTS	

LEGEND COSTS AREA FOR COSTS AREA, SEE PAGE 12 (SEE PAGE 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100)		02
---	--	----

STATE OF CALIFORNIA)
)ss
COUNTY OF ORANGE)

I, R. Michael Robinson, secretary to the Planning Commission of the City of Costa Mesa, do hereby certify that the foregoing Resolution was passed and adopted at a meeting of the City of Costa Mesa Planning Commission held on October 10, 2005, by the following votes:

AYES: COMMISSIONERS: EGAN, FISLER, GARLICH

NOES: COMMISSIONERS: PERKINS, HALL

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE


Secretary, Costa Mesa
Planning Commission

EXHIBIT "B"

CONDITIONS OF APPROVAL

- Plng. 1. The conditional use permit herein approved shall be valid until revoked, but shall expire upon discontinuance of the activity authorized hereby for a period of 180 days or more. The conditional use permit may be referred to the Planning Commission for modification or revocation at any time if the conditions of approval have not been complied with, if the use is being operated in violation of applicable laws or ordinances, or if, in the opinion of the development services director or his designee, any of the findings upon which the approval was based are no longer applicable.
2. The conditions of approval for PA-95-10, as modified, shall continue to be complied with, including, but not limited to, the following:
- A. Daily hours of operation shall be restricted to the period between 9 a.m. and 1 a.m. with a review after 90 days and another after 90 additional days.
 - B. There shall be no use of outdoor seating or tables in conjunction with this use; there shall be no service of alcoholic beverages outside the building.
 - C. A maximum of six (6) billiards tables shall be allowed in conjunction with this conditional use permit and the area devoted to electronic game machines shall not exceed 700 square feet.
 - D. The supervision of the patrons on the premises shall be adequate to ensure there is no conduct that is detrimental to the public health, safety, and general welfare.
 - E. Applicant is reminded that valet parking for patrons of The Lakes retail center is to occur only on the premises.
 - F. The premises shall be maintained as a bona fide eating establishment in accordance with California Alcoholic Beverage Control requirements.
 - G. There shall be no room or designated area reserved for the exclusive use of designated persons or "Private Club Members".
 - H. The business shall be conducted at all times in a manner that will allow for the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute necessary security and operational measures to comply with this requirement.
 - I. Sales of alcoholic beverages for off-site consumption shall be prohibited.
 - J. The two doors from the proposed game room that open towards the interior of The Lakes center shall be emergency exits only, and shall remain closed at all times while the business is in operation.
 - K. A copy of the conditions of approval shall be kept on the premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
3. The applicant shall maintain free of litter of all areas of the premises under which applicant has control.
4. Complaints regarding the violation of any of the above operating conditions and restrictions shall be immediately remedied by the



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: OCTOBER 10, 2005

III.3.
ITEM NUMBER:

**SUBJECT: REVIEW OF CONDITIONAL USE PERMITS PA-95-10 AND PA-03-39
CORNER OFFICE SPORTS BAR AND GRILL
580 ANTON BLVD. #201**

DATE: SEPTEMBER 29, 2005

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611**

PROJECT DESCRIPTION

Review of conditional use permits PA-95-10 and PA-03-39 for an existing sports bar/restaurant (Corner Office Sports Bar and Grill) for possible modification to the conditions of approval or revocation.

APPLICANT

The operators of Corner Office Sports Bar and Grill are Duane V. Heldt and Stephanie Potter. The property owner is Roger Allensworth.

RECOMMENDATION

Modify the conditions of approval for conditional use permit PA-95-10 and revoke conditional use permit PA-03-39 by adoption of Planning Commission resolution.

MEL LEE, AICP
Senior Planner

R. MICHAEL ROBINSON, AICP
Asst. Development Services Director

and Conditional Use Permits (see Code Enforcement letter dated November 3, 2004). However, the problems have continued whenever live entertainment, private parties, and late hours have occurred. The specific problems are ongoing criminal activity; ongoing municipal code violations, over serving of alcoholic beverages, and lack of adequate security.

Based on the problems related to the establishment that have been documented by the Police Department, the code violations observed by staff, and the inability of the operators to correct these problems despite attempts by the Police Department and City staff to work with them, staff is recommending the following actions be taken on the conditional use permits for the establishment:

1. Modify the conditions of approval for conditional use permit PA-95-10 as follows:
 - Condition No. 2(A): Daily hours of operation shall be restricted to the period between 9 a.m. and ~~4 a.m.~~ 11:00 p.m.
 - Condition No. 2(B): There shall be no ~~expansion of~~ outdoor seating or tables in conjunction with this use.
 - Condition No. 7 (new condition of approval): Live entertainment and/or dancing shall be prohibited.
 - Condition No. 8 (new condition of approval): No private parties shall be permitted.
2. Revoke conditional use permit PA-03-39. If the conditional use permit is revoked, live entertainment and dancing, either through PA-95-10 or a Public Entertainment Permit, would not be permitted.

It is staff and the Police Department's opinion that with the recommended modifications to the conditions of approval for PA-95-10, and the revocation of PA-03-39, the calls for Police service and other problems will be greatly reduced.

Other Issues

On August 16, 2005, City Council approved General Plan Screening request GPS-05-03 that would allow the entire Lakes Pavilion retail center (where the establishment is located) to be redeveloped with two high-rise condominium towers. Because an Environmental Impact Report (EIR) is required to be prepared for the project, public hearings on the general plan amendment and other entitlements for the project would likely not be scheduled until spring or summer of 2006.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. Modify the conditions of approval for PA-95-10 and revoke PA-03-39 as recommended by staff;

POLICE DEPARTMENT MEMOS

**CITY OF COSTA MESA
POLICE DEPARTMENT
INTER OFFICE MEMORANDUM**

TO: Jim Golfos, Chief of Code Enforcement

FROM: Lieutenant Karl Schuler, Area II Commander

SUBJECT: Modification to Corner Office Sports Grill Public
Entertainment Permit

DATE: August 2, 2005

PURPOSE:

Revocation/modification of the Corner Office Sports Grill's Public Entertainment Permit to prohibit dancing, live music or mobile disc jockey, private parties, and enact a closing time of no later than 11:00 P.M.

BACKGROUND:

On June 7 and 15, 2005, Police Department staff submitted reports to Senior Planner Mel Lee, requesting revocation/modification to the existing Public Entertainment Permit at the Corner Office Sports Grill (580 Anton Boulevard). In the reports directed to Mel Lee, Police Department staff outlined ongoing specific violations of State and local Municipal Code violations. All of the data submitted was gathered over the past thirteen (13) months.

ANALYSIS:

In February of this year, Police Department staff met with co-owners, Duane Heidt and Stephanie Potter, to discuss concerns of increased criminal activity and Municipal Code Violations. Mr. Heidt and Ms. Potter assured me that they would keep a watchful eye on their business and would have their private security be more attentive. Due to staff's concerns, Code Enforcement was instructed to issue a three (3) month Public Entertainment Permit. The current Public Entertainment Permit expires on June 15, 2005.

Statistical data for the Corner Office Sports Grills was gathered and is only available from April 2004 to date. For a thirteen (13) month period, Police Department personnel have responded to forty-five (45) calls for service at the Corner Office Sports Grill. Of the total calls responded to, thirty-six (36) were crime related. These figures indicate a large increase compared to the one (1) year period prior to November 2002. The above-mentioned issues all relate to each other and have led to increased police and fire attention. The Corner Office Sports Grill is consuming valuable City resources when these same resources are needed elsewhere throughout the City.

Ongoing Criminal Activity

As mentioned earlier, crime has been ongoing at the Corner Office Sports Grill during the past thirteen (13) months. Most notable is a shooting that occurred on May 21, 2005. The Corner Office Sports Grill played host to a private birthday party. A witness described the partygoers as "Gang member types." A fight ensued in the interior of the location and ended up outside. Several shots were fired and a total of three (3) persons were hit. All three (3) were treated at local hospitals. In addition to the wounded parties, stray bullets struck properties on the west side of Avenue of the Arts, causing damage to private property.

On October 16, 2004, a patron of the Corner Office Sports Grill was stabbed five (5) times, while two (2) other patrons were struck/injured by beer bottles.

During the same time period, four (4) additional fights have occurred involving patrons of the Corner Office Sports Grill. Of the above-mentioned incidents, Costa Mesa Paramedics responded for medical aid. All serious crimes committed occurred after 11:00 p.m. In addition, the shooting and stabbing incidents involved patrons who were attending private parties at the business. The aforementioned incidents are a violation of CMMC Section 9-201 (d).

Ongoing Municipal Code Violations

As mentioned earlier, section 2B states that there shall be no outside patio use. During the timeframe in question, officers have responded to, or discovered at least sixteen (16) violations of this section. In addition to patrons being in a prohibited location, they have been in possession of open containers of alcoholic beverages. These incidents have been documented and copies of the reports were forwarded to Code Enforcement. Police have also responded to at least eight (8) complaints of loud music by neighboring businesses and hotel guests. This is a direct violation of section 2H of the Corner Office Sports Grill's Public Entertainment Permit. The aforementioned is a violation of Section CMMC 9-201 (b).

Over serving of Alcoholic Beverages

Officers have dealt with two (2) patrons who were arrested for public drunkenness and three (3) additional patrons were arrested for drunk driving. In a telephone conversation with Stephanie Potter (co-owner) approximately two (2) weeks ago, I explained to her that I was concerned with increased criminal activity at her business. In one response to a statement that I made to Ms. Potter, she stated to the effect, what was she to do if the customers drink too much. Ms. Potter paused at the same time I interjected, "Don't over serve." She replied, "You're right." The aforementioned incidents are violations of CMMC Section 9-201 (b).

Lack of Adequate Security

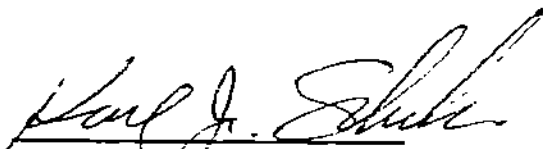
Since the recent shooting incident (May 21, 2005), officers have been conducting increased patrol in and about the Corner Office Sports Grill. On Saturday, May 28, officers did not see any security officers at the business. Under sections 2D&H, Corner Office Sports Grill is required to utilize security officers to supervise patrons and assure that the business complies with certain requirements of the permit.

The sixteen (16) violations of the patio use (2B) and eight (8) violations of the noise restriction (2H), clearly indicate that security, if present, is not doing what is required of them. Additionally, patrons are drinking alcoholic beverages in excessive levels, which are leading to public intoxication and drunk driving arrests and the potential for fatal traffic collisions. Patrons are fighting with bottles, knives and guns. Where was the Corner Officer Sports Grill's security staff when these incidents occurred? These incidents are violations of CMMC Section (I).

RECOMMENDATIONS:

To reduce criminal activity and provide a safer environment, Police Department staff recommends that the following conditions be met in regards to the Corner Office Sports Grill's Public Entertainment Permit:

1. Eliminate live music, Karaoke, mobile disc jockey and dancing.
2. No private parties
3. A closing time of no later than 11:00 p.m.


KARL J. SCHULER
Lieutenant

COSTA MESA POLICE DEPARTMENT

MEMORANDUM

TO: Mel Lee, Senior Planner
Willa Bouwens-Killeen, Principal Planner

FROM: Lieutenant Karl Schuler, Area II Commander

SUBJECT: Modification to Corner Office Sports Grill Public
Entertainment Permit

DATE: June 15, 2005

Per your request dated June 7, 2005, Police Department staff has compiled the statistical data relating to the Corner Office, Shark Club, Garf's and Shooters. The data spans the period from April 2004 to June 6, 2005. Each police report generated at the aforementioned establishments was reviewed to confirm the type of incident.

This report will discuss the criminal and non-criminal activity at each establishment. The following chart is offered to illustrate a comparison between the four (4) locations:

Location	Total Calls	Total Reports	Criminal	Non-Criminal	Unfounded
Garf's	21	9	7	14	12
Shooters	3	1	1	1	2
Shark Club	78	29	20	9	49
Corner Office	54	18	18	36	36

GARF'S

Garf's is a drinking/eating establishment that has pool tables and television monitors that display sporting events. Garf's experienced a very low level of activity for the thirteen (13) month study period. The Police Department

responded to, or generated a total of twenty-one (21) calls; only nine (9) reports were completed. There were a total of two (2) vehicle burglaries and the passing of a counterfeit bill case. The only assault and battery case involved a single fist strike to a man who was standing outside the location on an attached patio.

SHOOTERS

It should be noted that Shooters has gone out of business and was not open for the entire span of this study. Shooters had a total of three (3) police related calls. One of the calls was a vehicle burglary and the associated crime scene investigation. The other call was the report of a fight that responding officers were unable to locate.

SHARK CLUB

The Shark Club is a drinking/eating establishment that caters to a young crowd and offers music and dancing. This location draws large numbers of patrons. Often times long lines of potential customers wait outside to enter, based on legal capacity levels. There were seventy-eight (78) police responses to the Shark Club for the thirteen (13) month study period. A total of twenty-nine (29) police reports were taken, twenty (20) of which were of a criminal nature. Forty-nine (49) calls resulted in no police action. There were nine (9) assaults or assault and battery reports. All of these crimes involved minor injuries. Of these reports, four (4) were claims of assaults by security guards removing intoxicated or unruly patrons. In all of the assault incidents, the involved parties were patrons of the Shark Club.

CORNER OFFICE

The Corner Office Sports Grill is a drinking/eating establishment that has pool tables and several television monitors that generally broadcast sporting events. The location also offers music and dancing. There were a total of fifty-four (54) police responses or police generated calls at the Corner Office Sports Grill. Of these calls, eighteen (18) reports were taken, all of a criminal nature. Nine (9) calls were reports of City Municipal Code violations. There were an additional eleven (11) disturbance and loud music complains that were handled by warning the Corner Office Sports Grill management. There were five (5) reports of fights and assault and battery incidents.

On October 16, 2004, a patron of the Corner Office Sports Grill was stabbed five (5) times and struck with beer bottles. This crime occurred the same night that The Corner Office Sports Grill began their "No Cover Charge 21 and Over" and Friday night events that featured "Drink Specials all Night Long."

On May 21, 2005, a shooting incident occurred at the Corner Office Sports Grill. Three (3) patrons were shot and injured. All of the victims were taken to local hospitals for treatment. These victims had been attending a private party inside the location where a fight broke out.

All of the aforementioned incidents involved Corner Office Sports Grill patrons, and took place either inside the business, parking lot or attached patio. None of the assaults or fights involved confrontations between security guards and patrons.

CONCLUSION

Of the four (4) locations studied, the Shark Club and the Corner Office Sports Grill generated the highest number of police related calls. Of these two (2), the Shark Club hosts significantly larger numbers of patrons. As mentioned before, almost one half of the assaults that occurred at the Shark Club were security officers keeping the peace. None of the assaults resulted in serious injuries. On the other hand, two (2) of the five (5) assaults that took place at the Corner Office Sports Grill involved knives and guns and resulted in serious injuries. Additionally, nine (9) City Municipal Code violations occurred because patrons were allowed to drink in restricted areas. These events, coupled with the eleven (11) disturbances and loud music complaints, demonstrate the overall lack of control by the security and management staff at the Corner Office Sports Grill.


KARL J. SCHULER
Lieutenant

Cc: John Hensley, Chief of Police

**CITY OF COSTA MESA
POLICE DEPARTMENT
INTER OFFICE MEMORANDUM**

RECEIVED
CITY OF COSTA MESA
DEVELOPMENT SERVICES DEPARTMENT

JUN 7 2005

TO: Mel Lee, Senior Planner

FROM: Lieutenant Karl Schuler, Area II Commander

SUBJECT: Modification to Corner Office Sports Grill Public
Entertainment Permit

DATE: June 7, 2005

PURPOSE:

Revocation/modification of the Corner Office Sports Grill's Public Entertainment Permit to prohibit dancing, live music or mobile disc jockey, private parties, and enact a closing time of no later than 11:00 P.M.

BACKGROUND:

Recent calls for police services, has prompted a closer look into the activity at the Corner Office Sports Grill. Reports indicate that during the past thirteen (13) months, assault with deadly weapons (including a shooting and a stabbing), fights, a rape and entertainment permit violations have occurred. In a recent shooting, three (3) persons were injured and associated stray bullets damaged property other than that of the Corner Office Sports Grill's.

ANALYSIS:

The Corner Office Sports Grill, located at 580 Anton Boulevard, Suite 210, currently possess a Public Entertainment Permit that allows for live music, Karaoke a mobile disc jockey and dancing. These functions are permitted Thursday through Sunday, from 9:00 p.m. through 2:00 a.m. The maximum legal occupancy of the establishment is 234 patrons.

In November 2002, the City received a request to transfer an existing type 47 (on-sale general for a bona fide eating establishment) ABC license to the new

business owner, Corner Office Sports Grill. Planning staff requested input from the Police Department as to whether this was a problem business. At the time, it was indicated that the five (5) reported calls for service received in the previous 12 months, was lower than the average number of such businesses City wide. As a result, the Police Department did not consider this a problem business and recommended approval of the ABC license transfer.

In 2004, the Planning Commission approved a permit to allow live entertainment and dancing at the Corner Office Sports Grill. This permit is automatically required to fulfill the obligations of City Code. Condition 2B states "Outside seating designated solely to the restaurant is not permitted because inadequate parking exists to support additional restaurant area."

In February of this year, Police Department staff met with co-owners, Duane Heidt and Stephanie Potter, to discuss concerns of increased criminal activity and Municipal Code Violations. Mr. Heidt and Ms. Potter assured me that they would keep a watchful eye on their business and would have their private security be more attentive. Due to staff's concerns, Code Enforcement was instructed to issue a three (3) month Public Entertainment Permit. The current Public Entertainment Permit expires on June 15, 2005.

There are four (4) issues to consider when discussing the revocation/modification of the current Public Entertainment Permit:

1. Ongoing criminal activity.
2. Ongoing Municipal Code violations.
3. Over serving of alcoholic beverages.
4. Lack of adequate security.

Statistical data is only available from April 2004 to date. For a thirteen (13) month period, Police Department personnel have responded to forty-five (45) calls for service at the Corner Office Sports Grill. Of the total calls responded to, thirty-six (36) were crime related. These figures indicate a large increase compared to the one (1) year period prior to November 2002. The above-mentioned issues all relate to each other and have led to increased police and fire attention. The Corner Office Sports Grill is consuming valuable City resources when these same resources are needed elsewhere throughout the City.

Ongoing Criminal Activity

As mentioned earlier, crime has been ongoing at the Corner Office Sports Grill during the past thirteen (13) months. Most notable is a shooting that occurred on May 21, 2005. The Corner Office Sports Grill played host to a private birthday party. A witness described the partygoers as "Gang member types." A fight ensued in the interior of the location and ended up outside.. Several shots were

fired and a total of three (3) persons were hit. All three (3) were treated at local hospitals. In addition to the wounded parties, stray bullets struck properties on the west side of Avenue of the Arts, causing damage to private property.

On October 16, 2004, a patron of the Corner Office Sports Grill was stabbed five (5) times, while two (2) other patrons were struck/injured by beer bottles.

During the same time period, four (4) additional fights have occurred involving patrons of the Corner Office Sports Grill. Of the above-mentioned incidents, Costa Mesa Paramedics responded for medical aid. All serious crimes committed occurred after 11:00 p.m. In addition, the shooting and stabbing incidents involved patrons who were attending private parties at the business.

Ongoing Municipal Code Violations

As mentioned earlier, section 2B states that there shall be no outside patio use. During the timeframe in question, officers have responded to, or discovered at least sixteen (16) violations of this section. In addition to patrons being in a prohibited location, they have been in possession of open containers of alcoholic beverages. These incidents have been documented and copies of the reports were forwarded to Code Enforcement. Police have also responded to at least eight (8) complaints of loud music by neighboring businesses and hotel guests. This is a direct violation of section 2H of the Corner Office Sports Grill's Public Entertainment Permit.

Over serving of Alcoholic Beverages

Officers have dealt with two (2) patrons who were arrested for public drunkenness and three (3) additional patrons were arrested for drunk driving. In a telephone conversation with Stephanie Potter (co-owner) approximately two (2) weeks ago, I explained to her that I was concerned with increased criminal activity at her business. In one response to a statement that I made to Ms. Potter, she stated to the effect, what was she to do if the customers drink too much. Ms. Potter paused at the same time I interjected, "Don't over serve." She replied, "You're right."

Lack of Adequate Security

Since the recent shooting incident (May 21, 2005), officers have been conducting increased patrol in and about the Corner Office Sports Grill. On Saturday, May 28, officers did not see any security officers at the business. Under sections 2D&H, Corner Office Sports Grill is required to utilize security officers to

supervise patrons and assure that the business complies with certain requirements of the permit.

The sixteen (16) violations of the patio use (2B) and eight (8) violations of the noise restriction (2H), clearly indicate that security, if present, is not doing what is required of them. Additionally, patrons are drinking alcoholic beverages in excessive levels, which are leading to public intoxication and drunk driving arrests and the potential for fatal traffic collisions. Patrons are fighting with bottles, knives and guns. Where was the Corner Office Sports Grill's security staff when these incidents occurred?

RECOMMENDATIONS:

To reduce criminal activity and provide a safer environment, Police Department staff recommends that the following conditions be met in regards to the Corner Office Sports Grill's Public Entertainment Permit:

1. Eliminate live music, Karaoke, mobile disc jockey and dancing.
2. No private parties
3. A closing time of no later than 11:00 p.m.

CONCLUSION:

Serious crime and calls for police and fire services has reached a level that is unacceptable as they apply to the Corner Office Sports Grill. The types of crime have escalated to patrons using lethal force upon each other. Ongoing Municipal Code violations, with as many warnings from officers, indicate a non-compliant attitude by Corner Office Sports Grill ownership. It is imperative that modifications to the current permit be made immediately, to assure the best possible quality of life for those in or around the Corner Office Sports Grill.


KARL J. SCHULER
Lieutenant

Code Enforcement Letter Dated November 3, 2004



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92626-1200

DEVELOPMENT SERVICES DEPARTMENT

November 3, 2004

COPY

Neotrinity Enterprises, Inc.
Corner Office
580 Anton Blvd.
Costa Mesa, CA 92626

Attention: Stephanie Potter
Regarding: Possible revocation of Entertainment Permit Approved January 29, 2004

Dear Ms. Potter

As you are aware, Neotrinity – Corner Office, operates under a Conditional Use Permit as well as an Entertainment Permit.

From April of this year through October 2004, we have received (5) eight incidents involving Police activity relating to your business and (4) four incidents involving violations of the Conditions set fourth in the Entertainment Permit issued to you.

Generally speaking, DUI arrests, Fights, Disturbances, and leaving open the rear doors.

Twelve incidents in a six month period is not acceptable. I would strongly suggest you exercise paragraph 2 sub-section D of your Conditions of Approval PA-95-10.

Failure to supervise your patrons, or continued Police responses will give me no choice but to revoke your Entertainment Permit and Recommend revocation of your Conditional Use permit to the City Council.

If you have any questions, or do not understand this warning, please feel free to call me at 714 754-4952.

Very truly yours,

Jim Golfos
Chief of Code Enforcement

cc: Planning Department

62

ORIGINAL STAFF REPORTS



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

**FOR ATTACHMENTS NOT INCLUDED IN THIS
REPORT, PLEASE CONTACT THE CITY CLERK'S
OFFICE AT (714) 754-5121**